

§ 378.3 Definition.

Propriety. Refers to the standards for intelligence activities promulgated in Executive orders, Presidential Directives, and DoD Directives. Other terms used herein are defined in E.O. 12333, 3 CFR, 1981 Comp., p. 200; DoD Directive 5240.1¹, and DoD 5240.1-R².

§ 378.4 Responsibilities and functions.

The Assistant to the Secretary of Defense for Intelligence Oversight shall be responsible for the independent oversight of all intelligence activities in the Department of Defense. In this capacity, the ATSD(IO) shall ensure that all activities performed by intelligence units and all intelligence activities performed by non-intelligence units, are conducted in compliance with Federal law and other laws as appropriate, Executive orders and Presidential Directives, and DoD Directives System issuances. In the exercise of this responsibility, the ATSD(IO) shall:

(a) Develop intelligence oversight policy and, in coordination with the General Counsel of the Department of Defense (GC, DoD), issue intelligence oversight guidance to the DoD intelligence components, including regulatory guidance implementing intelligence oversight aspects of E.O. 12333.

(b) Review, in consultation with the GC, DoD, all allegations that raise questions of the legality or propriety of intelligence activities in the Department of Defense.

(c) Investigate intelligence activities that raise questions of legality or propriety.

(d) Conduct vigorous and independent inspections of the DoD Components that engage in intelligence activities for the purpose of verifying that personnel are familiar and in compliance with E.O. 12333 and its DoD implementing documents. At the request of senior leadership of the Department, and as practicable, the ATSD(IO) will assess and evaluate the performance of DoD's intelligence activities during the course of scheduled inspections and site visits. Reports in these areas of

special interest will be provided to the requesting official and the Secretary of Defense for information.

(e) Monitor investigations and inspections conducted by the DoD Components related to intelligence activities, evaluate the findings and, if appropriate, submit recommendations for corrective action to the Secretary and Deputy Secretary of Defense.

(f) Report the following to the Secretary and Deputy Secretary of Defense, and the Intelligence Oversight Board of the President's Foreign Intelligence Advisory Board, established under E.O. 12863, 3 CFR, 1993 Comp., p. 632, at least quarterly, in consultation with the GC, DoD:

(1) Any significant oversight activities undertaken; and

(2) Any DoD intelligence activities of questionable legality or propriety, the investigative action on them, an evaluation of completed investigations, and the action taken on completed investigations.

(g) Participate as a member of the Defense Counterintelligence Board (DoD Directive 5240.2³).

(h) Pursuant to DoD Directive 5240.12⁴, review and conduct an annual financial audit of all funds generated by DoD Intelligence Commercial Activities, and report the results to the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence.

(i) Review DoD clandestine intelligence activities to ensure compliance with special constraints and controls.

(j) Evaluate the effectiveness of the DoD intelligence components' efforts to protect HUMINT sources, in accordance with DoD Directive S-5205.1⁵.

(k) Participate in the Sensitive Reconnaissance Operations approval process.

(l) Conduct liaison with Federal intelligence and law enforcement agencies (e.g., Central Intelligence Agency, Federal Bureau of Investigation, and Drug Enforcement Administration) at the national level and field locations, as required, to ensure DoD intelligence activities and DoD intelligence support

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

²See footnote 1 to § 378.3.

³See footnote 1 to § 378.3.

⁴See footnote 1 to § 378.3.

⁵Classified document, not releaseable to the public.